

ROD STONE (Cal. Bar No. 145405)
JULIE KIMBALL (Cal. Bar No. 252449)
MICHAEL MENSSSEN (Cal. Bar No. 273388)
BRANDON J. STOKER (Cal. Bar No. 277325)
KAREN MOODY (Cal. Bar No. 273178)
Gibson, Dunn & Crutcher LLP
333 South Grand Avenue
Los Angeles, California 90071
(213) 229-7000

Attorneys for Petitioners VENICE STAKEHOLDERS
ASSOCIATION and MARK RYAVEC

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

<i>In the matter of:</i> Venice Main Post Office Venice, California 90291 (Mark Ryavec and Venice Stakeholders Association, Petitioners)	Docket No. A2012-17
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**MOTION TO COMPEL FILING OF THE ADMINISTRATIVE RECORD
AND REQUEST FOR LEAVE TO ANSWER THE U.S. POSTAL SERVICE'S
MOTION TO DISMISS IN PETITIONERS' INITIAL BRIEF**

Petitioners Venice Stakeholders Association and Mark Ryavec (collectively “the Venice Stakeholders”), by counsel, respectfully move this Commission to (1) compel the United States Postal Service (“Postal Service”) to file the administrative record in this matter consistent with this Commission’s prior order and with Rule 113 of the Commission’s Rules of Practice and Procedure,¹ and (2) grant the Venice Stakeholders leave to answer the Postal Service’s motion to dismiss in their initial brief.

¹ 39 C.F.R. 3001.113.

First, this Commission, in the scheduling order issued on October 20, 2011,² directed the Postal Service to file the administrative record with the Commission by November 1, 2011, pursuant to Rule 113. *Id.* at 2. To date, this record has not been filed with the Commission or otherwise made available to the Venice Stakeholders. The contents of this record are critical to the Commission's determination both of its jurisdiction to hear this appeal and of the merits of Venice Stakeholders' arguments raised in this appeal. As such, the Venice Stakeholders, in their motion for extension of time to file the initial brief, filed concurrently with this motion, have requested additional time to incorporate the contents of the Postal Service's record in their response to the motion to dismiss and in their initial brief. Further, the Venice Stakeholders believe that it would be premature for the Commission to consider the merits of the Postal Service's motion to dismiss without first considering the contents of the administrative record.

Specifically, the Venice Stakeholders intend to argue that the Postal Service's proposed action regarding the Venice Main Post Office ("VMPO") is a "closure" for purposes of 39 U.S.C. § 404, because (1) the Postal Service intends to close and sell the VMPO facility before a suitable replacement facility has been provided, thereby subjecting the Venice community to an indefinite "closure" of retail postal facilities available to the public; and/or (2) the Postal Service, in consolidating the VMPO with the Postal Service Annex in Venice, will so drastically reduce the amount of services available to the Venice community so as to subject the community to a constructive "closure" of the post office in Venice. The Venice Stakeholders require documentation to support these claims that is presently in the exclusive possession of the Postal

² Docket No. A2012-17, Notice and Order Accepting Appeal and Establishing Procedural Schedule, October 20, 2011 (Order No. 918).

Service. If the Commission grants the Venice Stakeholders' request for extension of time in which to file their initial brief, the Venice Stakeholders request that the Commission direct the Postal Service to file the administrative record as soon as possible, but no later than at least one week before the proposed December 5th deadline for the initial brief ---that is, on or before November 28, 2011. If the Commission denies the Venice Stakeholders' request for an extension, the Venice Stakeholders request that the Commission direct the Postal Service to file the administrative record on or before November 16, 2011.

Second, the Venice Stakeholders request leave to answer the Postal Service's motion to dismiss in their initial brief, because the Venice Stakeholders' arguments in support of jurisdiction are inextricably intertwined with the merits of their arguments on appeal. The pivotal questions presented in this appeal are (1) whether the action proposed by the U.S. Postal Service regarding the VMPO amounts to a "closure" within the meaning of 39 U.S.C. § 404; and (2) if so, whether the U.S. Postal Service complied with the legal requirements for a "closure" in 39 U.S.C. § 404 and 39 C.F.R. 241.3.

If the Commission determines that the proposed action is a "closure," it will have jurisdiction to hear this appeal and will almost certainly find that the Postal Service has not complied with the closure requirements in 39 U.S.C. § 404 and 39 C.F.R. 241.3.³ If the action is not a closure, the Commission will not have jurisdiction to entertain this appeal. Because the question of jurisdiction substantially overlaps with the merits of the

³ The Postal Service classifies the proposed action regarding the VMPO as a "relocation" (rather than a "closure") and alleges only that it has complied with the regulations for "relocation" in 39 C.F.R. 241.4. Although Petitioners argue that the Postal Service has failed to meet even the more permissive requirements for "relocation," this issue is not presently before the Commission.

Venice Stakeholders' appeal, the Venice Stakeholders submit that this question can most effectively and efficiently be addressed in the Venice Stakeholders' initial brief.

WHEREFORE, the Venice Stakeholders respectfully request (1) an order directing the Postal Service to file the administrative record with the Commission, and (2) leave to answer the Postal Service's motion to dismiss in their initial brief.

DATED: November 14, 2011

/s/ Julie Kimball
JULIE KIMBALL
Attorney for Petitioners
VENICE STAKEHOLDERS ASSOCIATION
and MARK RYAVEC